

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Appeal of  
the Civil Trespass Citation Issued  
to Larry Herbert Engel;  
Citation No. 145614

**NOTICE OF PREHEARING  
CONFERENCE AND  
NOTICE OF HEARING**

PLEASE BE ADVISED that a prehearing conference will be held by telephone conference call on **Thursday, September 3, 2009**, beginning at **10:30 a.m.** and continuing as long as necessary. Barbara L. Neilson, the undersigned Administrative Law Judge, will place the conference call. Judge Neilson may be reached at the following address and telephone number:

Barbara L. Neilson  
Administrative Law Judge  
Office of Administrative Hearings  
P.O. Box 64620  
St. Paul, MN 55164-0620  
651-361-7845

Judge Neilson will call the following persons to participate in the prehearing conference call: Conservation Officer Colleen Adam, who issued the citation, at 218-252-1998; and Larry H. Engel, who appealed the citation, at 218-732-3456. If it is necessary to change the time of the conference call, or if a different telephone number should be used, please contact Nancy Hansen (Judge Neilson's legal secretary) at 651-361-7874 as soon as possible.

The purpose of the prehearing conference telephone call is to discuss the nature of the dispute and to determine the best way to resolve it. The telephone call is expected to last no more than thirty minutes. If the appeal cannot be resolved during the telephone call, then the Judge will set a time and a place for a hearing. The Judge will also decide whether the hearing will be held by telephone or in person.

The citation that is being appealed was issued pursuant to Minn. Stat. § 84.773, subdivision 1(1). That statute prohibits the intentional operation of an off-highway vehicle on a trail on public land that is designated or signed for nonmotorized use only. Minn. Stat. § 84.775, subd. 1(a), states that a

conservation officer may issue a civil citation for violation of the statute. Minn. Stat. § 84.775, subd. 2, specifies that the person receiving the citation may appeal the citation in accordance with Minn. Stat. § 116.072, subd. 6. That statute in turn sets forth an expedited administrative hearing process, and refers to Minnesota Rules, parts 1400.8510 to 1400.8612. These are the rules that will govern the conduct of this appeal.

The above-referenced statutes may be found using the Internet at [www.revisor.leg.state.mn.us/stats/](http://www.revisor.leg.state.mn.us/stats/) and the rules may be found at [www.revisor.leg.state.mn.us/arule/](http://www.revisor.leg.state.mn.us/arule/). In the alternative, copies of these statutes and rules may be obtained from the Documents Section of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155. Statutes and rules may also be found at county law libraries and many other public libraries in the State.

It is not necessary for a person to have an attorney in order to participate in this case. You may, however, choose to be represented by legal counsel or any other representative of your choice. If you choose to be represented by an attorney, please have your attorney file a Notice of Appearance with the Judge and notify Ms. Hansen of the attorney's telephone number to ensure that the attorney may also participate in the prehearing conference call.

The decision in this case will be based only on factual information or evidence that is part of the hearing record. Persons participating in the hearing should have available at the time of the hearing all documents, records, witnesses, and any other evidence they need to present their position. Subpoenas may be available to compel the attendance of witnesses or other production of documents. See Minnesota Rules part 1400.8601 for the procedures regarding subpoenas. Any person other than Officer Adam and Mr. Engel who desires to become a party to this case must submit a timely petition to intervene pursuant to Minn. Rules part 1400.8570.

After the hearing is over, the Administrative Law Judge will issue a recommended decision. A copy will be sent to each party and to the Commissioner of Natural Resources. After allowing at least five days to pass, the Commissioner will issue a final order. During the five-day period, the parties may file comments with the Commissioner regarding the recommended decision.

**If a person who received a citation fails to participate in the prehearing conference telephone call or fails to appear at the hearing, the citation will be upheld and the fine will have to be paid within thirty (30) days of the issuance of the Commissioner's final decision, with no further opportunities for administrative appeal.**

Appeal hearings should be limited to cases where there is a legitimate, good faith disagreement about the facts or the law. Under Minn. Stat. § 116.072, subd. 6(d), if the Administrative Law Judge finds that a hearing was requested solely for purposes of delay or that the hearing request was frivolous, the costs of holding the hearing may be added to the amount of the fine.

Questions concerning settlement of this matter may be directed to the issuing officer or Pat Watts, Policy/Legal Analyst, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4047, telephone (651) 259-5058.

If any party has good cause for requesting a delay of the prehearing conference or the hearing, the request must be made in writing to the Administrative Law Judge at least five (5) days in advance. A copy of the request must be served on the other parties.

If you need an accommodation in order to participate in this hearing process, please call: (651) 361-7832 (voice) or (651) 361-7878 (TDD).

Dated: July 24, 2009

s/Barbara L. Neilson  
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BARBARA L. NEILSON  
Administrative Law Judge